

COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. **06-MSRC-029**

COMMONWEALTH OF KENTUCKY,
OFFICE OF MINE SAFETY AND LICENSING

COMPLAINANT

FINAL ORDER FOR DANNY RATLIFF

DANNY J. RATLIFF, WILLIAM D. LUKE &
ROBERT J. HURLEY

RESPONDENTS

* * * * *

This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant, Office of Mine Safety and Licensing (OMSL) and Respondent Danny Ratliff, and the members of the Commission having reviewed the Settlement Agreement filed on or about April 20, 2007 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY **ORDERED** as follows:

1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The formal hearing and pre-hearing conference are **CANCELLED**;
3. The **Settlement Agreement** signed by the parties and filed with the Commission is hereby **incorporated by reference** as if reproduced herein in full as a material part of this **FINAL ORDER**.

A copy is attached hereto;

4. This Final Order only resolves the matters referenced herein, and any new enforcement action or subsequent penalties imposed during any probationary period are in addition to and not in lieu of those that may be sought by OMSL for the acts or omissions during that probationary period. This Final Order in no way prohibits OMSL from investigating or filing legal action based upon other activities or omissions by the Respondent not arising from the factual basis of the original violation and resolved herein.
5. This Final Order shall be considered to constitute a “first offense” as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent, resulting in an adjudication of guilt by the Commission, shall be deemed “subsequent offenses” as defined by 805 KAR 8:010, Section 1(13);
6. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, in these matters. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission; and
7. Appellate rights: Pursuant to KRS 351.194(8) and KRS 13B.140(1), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of this Final Order. The petition shall include the names and addresses of all parties of record in this proceeding and shall include a statement of the grounds upon which review is requested. A copy

of this Final Order shall accompany the petition. Copies of the petition must be served upon the Commission and all parties of record in this proceeding.

Entered this the 20TH day of April 2007.



Denise Moore Davidson, Chair
MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ORDER was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this 24TH day of May 2007:

DANNY J. RATLIFF
354 ASH LICK FORK
PHELPS, KY 41553-8817

And by regular mail to:
WILLIAM D. LUKE
1924 SUNSET BOULEVARD,
APT. J14,
ROCK SPRINGS,
WYOMING 82901


HON BILLY SHELTON
151 N. EAGLE CREEK DRIVE, STE 310
LEXINGTON KY 40509

Counsel for:
ROBERT J. HURLEY
20 RIGHT TURKEY TOE ROAD
P.O. BOX 267
HARDY KY 41531-0267

And by messenger mail to:
JENNIFER C. SMOCK
OFFICE OF LEGAL SERVICES
NATURAL RESOURCES LEGAL DIVISION
#2 HUDSON HOLLOW
FRANKFORT KY 40601
502/ 564- 2356
FAX 502/ 564 - 9212
Attorney for OMSL

And the original shall be kept on file:

Mine Safety Review Commission
132 Brighton Park Blvd.
Frankfort Ky 40601


Bryan Alan Thompson
Hearing Officer & General Counsel
Mine Safety Review Commission

**COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. 06-MSRC-029**

COMMONWEALTH OF KENTUCKY,
OFFICE OF MINE SAFETY AND LICENSING

COMPLAINANT

VS.

SETTLEMENT AGREEMENT BETWEEN OMSL
AND DANNY J. RATLIFF

DANNY J. RATLIFF, WILLIAM D. LUKE
And ROBERT J. HURLEY

RESPONDENTS

Comes the Complainant, the Kentucky Office of Mine Safety and Licensing ("OMSL"), and Respondent, Danny J. Ratliff ("Ratliff"), and hereby state that they have agreed to a settlement of the above styled disciplinary proceeding, according to the following terms:

In consideration for the final resolution of this action against him, and the cancellation of the hearing as it pertains to him that was scheduled for April 20, 2007, Ratliff hereby admits that he violated the provisions of KRS 352.201 as cited in Non-Compliance/Closure Order Nos. 06608-007, 06608-008 and 06608-010, as alleged in OMSL's Complaint. Ratliff further admits that as foreman, he is jointly responsible for all unsafe conditions/violations set forth in the Administrative Complaint, pursuant to KRS 352.350. Therefore, Ratliff agrees to the following:

1. Ratliff agrees to the suspension of his underground mine foreman's certificate (#A-164-93) for a period of one (1) year, effective upon the approval and entry of this Settlement Agreement by the Mine Safety Review Commission.

2. Following the one (1) year suspension period, Ratliff agrees that his underground mine foreman's certificate shall be probated for an additional period of one (1) year.

3. Ratliff agrees to the suspension of his shot firer-solid blasting (#PE-121-84), shot firer-conventional (#PE-149-84), EMT (#37027) and drill operator (#PE-009-85) certificates for a period of one (1) year, effective upon the approval and entry of this Settlement Agreement by the Mine Safety Review Commission.

4. The parties agree that Ratliff's remaining certificates, to wit: his underground coal miner, MET (#PE-085-00), gas detection (#PE-047-81), first aid-8 hours (#PE-488-89) and electrical worker (#PE-315-05) certificates, shall remain in full force and effect during the suspension and probationary periods set forth herein and that no punishment shall be imposed on those certificates.

5. During the suspension and probationary periods set out herein, Ratliff shall comply with all state and federal mine safety laws and regulations. The willful violation by Ratliff of any of said laws and regulations may result in OMSL filing a motion with the Mine Safety Review Commission to revoke all of his certificates for the remainder of the suspension and probationary period.

6. Within forty-five (45) days of the effective date of this Settlement Agreement, Ratliff must take eight (8) hours of special safety training from OMSL at its Pikeville District Office. This eight (8) hours of training shall be in addition to any training required by law to maintain existing certificates or receive new certificates.

7. Ratliff further agrees that this Settlement Agreement and any final order issued herein by the Mine Safety Review Commission will be considered by the Commission to constitute a "first offense," as that term is defined at 805 KAR 8:010, Section 1(13).

8. Ratliff understands and agrees that he has had the opportunity to retain an attorney to represent him in this matter, but that he has chosen to represent himself. Ratliff

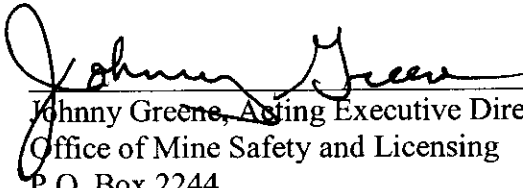
further states that he has carefully read this Settlement Agreement (or that the Settlement Agreement has been read to him), that he has carefully considered the Agreement prior to signing it and that he understands and agrees to its terms and provisions.

9. OMSL and Ratliff acknowledge and agree that there are no further promises, inducements, representations, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.



Danny J. Ratliff
354 Ash Lick Fork
Phelps, Kentucky 41553-8817

5-16-07
Date



Johnny Greene, Acting Executive Director
Office of Mine Safety and Licensing
P.O. Box 2244
Frankfort, Kentucky 40602

5-22-07
Date